



[digitalcommons.nyls.edu](http://digitalcommons.nyls.edu)

---

Faculty Scholarship

Articles & Chapters

---

2000

# Introduction: A Retrospective on the Lesbian/Gay Law Notes

Arthur S. Leonard

*New York Law School*, [arthur.leonard@nyls.edu](mailto:arthur.leonard@nyls.edu)

Follow this and additional works at: [http://digitalcommons.nyls.edu/fac\\_articles\\_chapters](http://digitalcommons.nyls.edu/fac_articles_chapters)



Part of the [Law and Gender Commons](#), and the [Sexuality and the Law Commons](#)

---

## Recommended Citation

17 *New York Law School Journal of Human Rights* 403–414 (2000)

This Article is brought to you for free and open access by the Faculty Scholarship at DigitalCommons@NYLS. It has been accepted for inclusion in Articles & Chapters by an authorized administrator of DigitalCommons@NYLS.

**SYMPOSIUM 2000**  
**Chronicling a Movement:**  
**A Symposium to Recognize the Twentieth**  
**Anniversary of the Lesbian/Gay Law Notes**  
**edited by Professor Arthur S. Leonard**

**Introduction**

**A Retrospective on the Lesbian/Gay Law Notes**

*Arthur S. Leonard*

Good morning, everybody. It is great to see so many people here to commemorate the 20th Anniversary of the Law Notes and to consider where we have been, where we are now, and where we might be going (and how we might get there) on the subject of sexual minority rights.

I use the term “sexual minority rights” quite deliberately, because Law Notes readers will know that over the years I have interpreted the subject matter of this newsletter quite broadly, going beyond the narrow confines of lesbian and gay law to consider the impact of the law more generally on issues of sexuality, including the rapidly growing case law on the rights of transgendered people and, most recently, incorporating references to new publications about intersexuality, a topic that has not yet emerged in American courts but has already produced some significant rulings in South America.

My main contribution to the symposium is a 100 page anthology of stories from Lesbian/Gay Law Notes, beginning with an item from the first issue in my files, January 1980, through an item from the September 2000 issue. Copies of the October 2000 issue are available here today, and I assure you that the November 2000 issue is already being written. The flood of new cases, legislative proposals, publications to note, professional announcements to publicize, just never ceases. I have prefaced the anthology with a brief history of Law Notes, some of which I will quickly recap now.

The roots of this publication go far back, to the mid-1960s, when I became the editor of my junior high school newspaper and

began my fascination with journalism that helps to motivate the Law Notes and my other publishing activities. The Law Notes, alone, have never satisfied that urge to write for immediate publication (as opposed to the very delayed gratification of writing law review articles and books); and, during most of my career as a lawyer in New York my work has appeared in various places in the gay press apart from the Law Notes. These days, you can read my thoughts on the most important new court decisions in the biweekly community newspaper, LGNY — if you can find it! (I promise, LGNY is expanding its street availability with additional honor boxes over the coming weeks, so it will become easier to find.)

The Law Notes grew out of the monthly meeting notices of The New York Law Group, an informal association of lawyers that I started in the spring of 1978. This remained a social group until the early 1980s, and the immediate purpose of those monthly mailings was to inform people about where the social gatherings would be and to pass on occasional news or announcements. By late 1979 I began to include photocopies of gay legal news stories, with occasional personal commentary. I formalized this in January 1980 by calling the whole thing New York Law Group Notes and making the inclusion of gay legal news more systematic. Over the next few years, the quantity of legal news grew to outstrip the organizational news and announcements.

In 1983, with a large critical mass of members and the pressing need for more structure, most importantly to support the growing pro bono and volunteer activities sparked by the AIDS epidemic, we had a series of organizational meetings held at the gay synagogue in Greenwich Village. The meetings culminated in the decision to incorporate as a Bar Association under the name of Bar Association for Human Rights of Greater New York, which happened in 1984. Once that formal step was taken, I split the publication into two parts, an organizational newsletter called the BAHN Report, and the substantive legal newsletter, Lesbian/Gay Law Notes, which by then included a substantial component of AIDS law information in each issue as well. Also, by then Law Notes had begun to pick up subscribers outside the membership of what we then called BAHRGNY, lawyers from other cities and law school libraries.

The routine during those years grew to involve several folks, in addition to myself, to help with circulation. The numbers climbed

from 500 to 600 to 700 and became beyond my capacity to handle on my own. While I handled the mailing, subscription lists, and made sure the newsletter was produced and duplicated, a corps of volunteers arrived the first Monday evening of each month at New York Law School for a folding, stuffing, and sealing party.

As the circulation grew, the content grew as well. Lambda Legal Defense Fund, Gay & Lesbian Advocates and Defenders in Boston, National Gay Rights Advocates in San Francisco, and toward the late 1980s, the new Lesbian and Gay Rights Project of the ACLU were all growing and generating more cases. And, more gay political groups were emerging to lobby for legislative change, all of which we duly reported and commented upon. Our ability to provide comprehensive coverage was enhanced by the arrival of faculty desktop Westlaw and Lexis access at NYLS, so I could institute my daily electronic research sessions. The scope of our news coverage has broadened even more over the past 4 or 5 years as Westlaw has drastically expanded its newspaper database to encompass the entire English-speaking world. So, reports on developments from Canada, Europe, South Africa, Australia and New Zealand have become routine in Law Notes; and, our international readership has grown as we have become available on the world wide web through the hospitality of the Queer Resources Directory housed on the servers of Occidental College in California.

In 1991, the Bar Association that Dare Not Speak Its Name (as some members referred a bit sarcastically to BAHARGNY) voted to become the Lesbian and Gay Law Association of Greater New York, known as LeGaL. A foundation was set up under section 501(c) (3) of the Internal Revenue Code to facilitate LeGaL's educational activities, including the Law Notes. So, today we are published by the LeGaL Foundation, which holds its own fundraising events and writes grant proposals in efforts to fund a host of important activities, including CLE, the summer Hank Henry Judicial Internship Program, and the Law Notes.

Through it all, we have had one main mission: to bring together, in one convenient place, all the important developments in the law affecting sexual minorities and people with HIV/AIDS, whether they involve litigation, legislation, or executive decision-making, to keep people up to date on what is being published in the professional law reviews, to announce and note major personnel developments in the professional lesbian and gay legal movement, and

to make it all available in a convenient and affordable format. (The tiny print in the columns directly relates to the need to keep it convenient, affordable, and timely. Fancier graphics, printing, and larger, more reader-friendly type-faces would be nice, but would double your price and lengthen the production process!!!)

I am proud to say that in 20 years of producing the Law Notes, we have never missed a publication deadline, even though sometimes we had to stretch it to the last available minute to get the thing done on time and out the door!

What has made this possible is the volunteer work of all our writers, in recent years the efficient office work from Danny Schaffer, LeGaL's person in the office who handles the circulation tasks that I used to handle before LeGaL had an office. I know that some of our contributing writers from over the years, including some of the current ones, are here today. I have listed all the Law Notes contributing writers through the September 2000 issue in the anthology, and many of their articles appear there together with my own. Now, I'll ask everybody here who has been a Law Notes contributing writer to stand and be acknowledged for their important contribution to the Law Notes' success.

I am not going to say anything more now about the history or content of Law Notes, since you all have the written account that I have prepared. But, I do want to say a few things about today's symposium and the body of law it is intended to examine.

First, I want to pay tribute to the man who had the idea for this symposium in the first place, Professor David Kirp of the University of California at Berkeley, a longtime friend who, upon learning that the Law Notes were 20 years old, suggested this was an event worthy of celebration and commemoration, and who initiated the call to New York Law School that got the ball rolling. Professor Kirp has made his own critically important contributions, including a wonderful book about the public policy process of dealing with AIDS in the public schools,<sup>1</sup> and insightful commentary in the San

---

<sup>1</sup> See, e.g., DAVID L. KIRP, *EDUCATION AND LEGAL STRUCTURE* (1971); *LEARNING BY HEART: AIDS AND SCHOOLCHILDREN IN AMERICA'S COMMUNITIES*; *JUST SCHOOLS: THE IDEA OF RACIAL EQUALITY IN AMERICAN EDUCATION* (1982); *The Politics of Blood: Hemophilia Activism in the AIDS Crisis*, in *BLOOD FEUDS: AIDS, BLOOD, AND THE POLITICS OF MEDICAL DISASTER* (E. A. Feldman & R. Bayer eds., 1999).

Francisco Examiner and in occasional articles and reviews in *The Nation* magazine, so his work may be familiar to many of you.

Second, I want to acknowledge the people here at NYLS who played a major role in getting this event organized: Professor Camille Broussard,<sup>2</sup> who took on the project as faculty advisor with enthusiasm, dedication, and tons of common sense and hard work. Jaci Flug, Executive Topics Editor at the *Journal of Human Rights*, who has taken charge of the logistical end of things with rare efficiency and good humor. Danielle Petito, Editor-in-Chief, and all the students on the *Journal of Human Rights* Staff, who have adopted this project as their own and pitched in to make sure that it would happen.

And, I have to mention, as well, the New York Law School, which has been my academic home for 18 years, and which has provided, both wittingly and unwittingly, much invaluable support for *Law Notes*, from the day I arrived and demanded that the Library subscribe to the *BNA Daily Labor Report*, which was one of my main sources and which immediately became the most expensive periodical subscription we have. Every dean of New York Law School since I joined the faculty has been very supportive of this effort, and of all of my work in support of the positive development of the law on sexuality minority and AIDS issues, and I want to mention specifically Deans E. Donald Shapiro, James Simon, Harry Wellington; and now, Rick Matasar, who promised me publicly at a reception this past Thursday, that finding some funding to support one or two full-time fellowships for recent graduates to work on sexual minority and AIDS law issues with me will be part of the Justice Action Center project that the School is now planning. (So, anybody out there with ideas for funding such fellowships should please get in touch.)

I also want to acknowledge the leadership of LeGaL and the LeGaL Foundation. The newsletter and the organization have an important symbiotic relationship, and the one would not exist without the other. So please, all past and present board members of

---

<sup>2</sup> Camille Broussard is the Head of Reference Services and an Adjunct Professor at New York Law School. She teaches courses in legal research skills. In addition, she is active in the Social Responsibilities Special Interest Section and its Standing Committee on Lesbian & Gay Issues of the American Association of Law Libraries and was a contributor to the Committee's authoritative bibliography on Sexual Orientation and the Law: 1969-1993, 86 *LAW LIBR. J.* 1 (1994).

LeGaL and the LeGaL Foundation who are here today, please stand and be recognized.

Now, just a few words on this symposium. Anyone who is a regular Law Notes reader will recognize most of the panelists' names, especially if you customarily check out the Publications Noted section of each issue. The panels we have put together here will present an interesting blend of practitioners and academics (with considerable overlap in those categories), all of whom I have come to know over the years for their important contributions to the 20-year story that the Law Notes has been telling. You have biographical information in the program, and the moderators will be introducing them to you, but I want to say just a few words here to help you appreciate the magnitude of their contributions.

The first panel, on its face, is a bunch of academics, but that is a misleading generalization, as you will hear.

Suzanne Goldberg, during her tenure as a staff attorney at Lambda, worked on some of the biggest, most important cases of the 1990s, including *Romer v. Evans*,<sup>3</sup> the landmark first major substantive gay rights Supreme Court victory in the post-Stonewall era. She is co-author of a book about that case<sup>4</sup> that I highly recommend, and has now begun what I am sure will be a distinguished academic career at Rutgers Law School in Newark.

Nan Hunter, the first director of the ACLU's Gay & Lesbian Rights Project, presided over what was and remains the most significant contribution to the battle for lesbian and gay rights from a major non-gay organization — the availability of an incredible national network of progressive, civil liberties-oriented attorneys. Nan invented that Project, put it on a firm foundation, and participated personally in many of its early successes, not least among them a major federal appellate victory in the Midwest, upholding the right of public university lesbian and gay student groups to equal treatment in funding with other student organizations. Nan

---

<sup>3</sup> *Romer v. Evans*, 517 U.S. 620 (1996).

<sup>4</sup> See, e.g. Suzanne B. Goldberg, Foreword, *Personal Harms and Political Inequities*, 1 GEO. J. GENDER & L. 197 (Spring 2000); SUZANNE B. GOLDBERG & LISA KEEN, STRANGERS TO THE LAW: GAY PEOPLE ON TRIAL (1998); *Gay Rights Through the Looking Glass: Politics, Morality and the Trial of Colorado's Amendment 2*, 21 FORDHAM URB. L.J. 1057 (1994); *Give Me Liberty or Give Me Death: Political Asylum and the Global Prosecution of Lesbians and Gay Men*, 26 CORNELL INT'L L.J. 605 (1993); *Civil Rights, Special Rights, and Our Rights*, in FIGHT THE RIGHTS ACTION KIT 63 (Sarah C. Gregory & Scott Nakagawa eds., 1993).

went on to an important position in the Clinton Administration and then to her current academic home at Brooklyn Law School, where she has been producing fantastic law journal articles that are pushing forward the frontiers of thinking about legal strategies for lesbian and gay rights.<sup>5</sup>

Kendall Thomas, from Columbia Law School, has emerged over the past 15 years or so as an important theoretician of lesbian and gay law, bringing powerful insights to the critical dissection of the *Bowers v. Hardwick* opinion,<sup>6</sup> not only as a legal expression but as a cultural expression, and to developing alternative constitutional theories for grappling with the problem of sexual minority identity in a sexual majority culture. And, he does this from an important activist perspective, because he has extended his work beyond the academy to provide personal leadership in the battle for the hearts and minds of ordinary folks, not just the types who read and think about law review articles.<sup>7</sup>

Suzanne, Nan, and Kendall will make up our first panel, giving what I am sure will be a penetrating look at where we have come over the past decades, moderated by Rosalyn Richter, a terrific judge and teacher who has for the past few years been teaching Sexual Orientation and the Law here at the School.

The second panel brings in prominent voices from today's lesbian and gay professional legal advocacy community.

Kevin Cathcart became Executive Director of Lambda Legal Defense after a distinguished period as Executive Director of Gay & Lesbian Advocates & Defenders, the feisty regional public inter-

---

<sup>5</sup> See, e.g., Nan D., Hunter, *Escaping the Expression-Equality Conundrum: Toward Anti-Orthodoxy and Inclusion*, 61 OHIO ST. L.J. 1671 (2000); THE RIGHTS OF LESBIAN AND GAY MEN: THE BASIC ACLU GUIDE TO A GAY PERSON'S RIGHTS (3d ed. 1992); *Response: Lawyering for Social Justice*, 72 N.Y.U. L. REV. 1009 (1997); *Expressive Identity: Recuperating Dissent for Equality*, 35 HARV. C.R.-C.L. L. REV. 1 (2000); WILLIAM N. ESKRIDGE, JR. AND NAN D. HUNTER, *SEXUALITY, GENDER AND THE LAW* (1997) (casebook); NAN D. HUNTER & LISA DUGGAN, *SEXUAL DISSENT AND POLITICAL CULTURE* (1995).

<sup>6</sup> *Bowers v. Hardwick* 478 U.S. 186 (1986).

<sup>7</sup> See, e.g., Kendall Thomas, *Corpus Juris (Hetero) Sexualis: Doctrine, Discourse, and Desire in Bowers v. Hardwick*, in A QUEER WORLD: THE CENTER FOR LESBIAN AND GAY STUDIES READER, ch. 33 (Martin Duberman ed., 1997); *The Eclipse of Reason: A Rhetorical Reading of Bowers v. Hardwick*, 79 VA. L. REV. 1805 (1993); *Strange Fruit*, in RACE-ING JUSTICE, ENGENDERING POWER 364 (Toni Morrison ed., 1992); *Beyond the Privacy Principle*, 92 COLUMBIA L. REV. 1431 (1992); CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kendall Thomas et al. eds., 1995).



est law firm based in Boston that fights energetically for lesbian and gay rights throughout New England. Lambda hosts a roundtable meeting of lesbian and gay movement attorneys every six months. I have been attending these meeting since they started in the mid-1980s, and looking around the room at the most recent one, I saw only two faces that I recalled from the very earliest meetings — Kevin Cathcart and Nan Hunter. Kevin has brought his organizational genius to bear on the task of creating durable structures for this movement, for which we all owe him a great debt.<sup>8</sup>

Matt Coles. Matt came to direct the ACLU Lesbian and Gay Rights Project when Bill Rubenstein, Nan Hunter's successor, left to take up an academic career. Matt had been an ACLU staff attorney in San Francisco, and was an active player in virtually all the important legal developments affecting gay rights and AIDS in California for many years. With due respect to all the other folks who participate in Lambda Roundtables, Lavender Law Conferences, and other events, I think nobody exceeds Matt in the ability to penetrate to the heart of complex legal issues, really cutting to the core, and proposing brilliant and innovative strategies for dealing with them.<sup>9</sup> Especially when some new important case comes out, I am always especially eager to hear what Matt Coles has to say about it. Matt was a regular Roundtable participant for many years before becoming Director at the ACLU, representing the gay rights issues at the Northern California affiliate, and I have been a big fan of his work for many years.

Finally, on the second panel, we have Shannon Minter, staff attorney for the National Center for Lesbian Rights in San Francisco, and one of the foremost spokespersons on the issue of transgender rights in the legal community today.<sup>10</sup> NCLR has focused

---

<sup>8</sup> See, e.g., Kevin M. Cathcart, *Gay Crisis is the Same as Black Cause*, N.Y. TIMES, July 10, 1993, at 18; Kevin M. Cathcart & Evan Wolfson, *Lesbian and Gay Rights in the 1990s: At the Barricades*, TRIAL, July 1993, at 56.

<sup>9</sup> See, e.g., Matthew Coles, *The Meaning of Romer v. Evans*, 48 HASTINGS L.J. 1343 (1997); *The Right Forum, the Right Issues: Initiatives and Family Values*, 8 BERKELEY WOMEN'S L.J. 166 (1993); TRY THIS AT HOME: A DO-IT-YOURSELF GUIDE TO WINNING LESBIAN AND GAY CIVIL RIGHTS POLICY (1996).

<sup>10</sup> See, e.g., SHANNON MINTER, *TRANSGENDER EQUALITY: A HANDBOOK FOR ACTIVISTS AND POLICYMAKERS* (2000); *Sodomy and Public Morality Offenses Under U.S. Immigration Laws: Penalizing Lesbian and Gay Identity*, 26 CORNELL INT'L L.J. 1771 (1993); *Diagnosis and Treatment of Gender Identity Disorder in Children*, in *SISSIES AND TOMBOYS: GENDER NONCONFORMITY AND HOMOSEXUAL CHILDHOOD* 9 (Matthew Rottnek ed., 1999); Shannon Minter & Paisley Cur-

heavily on the issues of lesbian and gay parenting, as well as confronting the intersection of sexism and homophobia in society as expressed through the law in many other areas. I have known Shannon for many years through the Roundtable and through reading the NCLR newsletter, and I have come to value the unique perspectives that Shannon brings to the wide array of issues now confronting the movement.

Kevin, Matt, and Shannon will give us their perspectives on the current situation regarding sexual minority rights, with Richard Burns as moderator. Richard has one of the longest movement histories of any participant today. I remember when he was a young lawyer on the Board of Lambda and active in Gay Community News, a Boston newspaper that was a leading voice in the gay press in the 1970s. Richard came to New York to take over the direction of the newly-organized Lesbian and Gay Community Center, and has been a catalyst for turning that organization into the true heart of the community. He has also spearheaded the movement to get such Centers up and organized throughout the country, and to unite them to address common concerns. He is truly an organization builder.

The final panel, looking to the future, features four women who bring impressive movement and intellectual credentials to the task.

Paula Ettelbrick was the second full-time lawyer on Lambda's staff during the 1980s, and became the Legal Director to carry on through a crucial period of growth in that organization's history. She is also a very talented appellate advocate. I remember the thrill, as a member of Lambda's legal committee, of sitting in the robing room for our moot court competition here with a New York appellate division judge who sat on a panel before whom Paula had argued, about a week before, the *Alison D* case,<sup>11</sup> — an important attempt to get New York courts to recognize the standing of lesbian co-parents to seek visitation with their children — and having that judge say to me, when I mentioned my affiliation with Lambda, that she thought Paula was one of the most effective advocates who had ever appeared before her. That judge dissented from the adverse ruling by the court, so Paula will remember who she was. Since

---

rah, *Unprincipled Exclusions: The Struggle to Achieve Judicial and Legislative Equality for Transgender People*, 7 WM. & MARY J WOMEN & L. 37 (2000).

<sup>11</sup> *Alison D. v. Virginia M.*, 572 N.E. 2d 27 (N.Y. 1991).

leaving Lambda, Paula has had a busy career as both an advocate, with NCLR, Empire Pride Agenda, and now the Task Force Policy Institute, and as an academic, teaching sexuality and law at several law schools, including New York Law School, University of Michigan, and New York University.<sup>12</sup>

I still remember vividly when Chai Feldblum first burst into my consciousness. She had just finished clerking for Justice Blackmun on the Supreme Court and she showed up at a Roundtable meeting, as the newest staffer at the ACLU. She was hired in the D.C. office to work on the effort to get a federal law to protect the rights of persons with disabilities, which, it was hoped, could be used to counter the epidemic of discrimination spawned by the AIDS crisis. Chai burst upon the Roundtable like a jolt of electricity. She can talk faster about complex legal issues than just about anyone I know! She has practically invented a new conception of the legislative lawyer, which she expounds as director of a unique Legislation Clinic program at Georgetown. She also writes provocative law review articles, most notably one claiming the moral high ground for gay rights advocacy in the legislatures.<sup>13</sup>

Nancy Polikoff is, without doubt, the foremost academic exponent in the U.S. for the legal recognition of lesbian and gay families including children. And, she is more than an academic exponent, because she is a very effective advocate through briefs and court arguments, in addition to the intellectual advocacy through path-breaking law review articles. Some of her earliest efforts in this direction remain among the most frequently cited writings on the

---

<sup>12</sup> See, e.g., Paula L. Ettelbrick, *Domestic Partner Benefits for State Employees*, POL'Y INST. OF THE NAT'L GAY & LESBIAN TASK FORCE (October 2000); *Since When is Marriage a Path to Liberation?*, OUT/LOOK, Autumn 1989, at 8, reprinted in WILLIAM B. RUBENSTEIN, *LESBIAN, GAY MEN, AND THE LAW* 401 (1993); *Legal Issues in Health Care for Lesbians and Gay Men*, 58 GAY & LESBIAN SOC. SERV. 93 (1996); *Wedlock Alert: A Comment on Lesbian and Gay Family Recognition*, 5 J.L. & POL'Y 107 (1996).

<sup>13</sup> See, e.g., Chai R. Feldblum, *Sexual Orientation, Morality, and the Law: Devlin Revisited*, 57 U. PITT. L. REV. 237 (1996); *The Federal Gay Civil Rights Bill: From Bella to ENDA*, in *CREATING CHANGE: SEXUALITY, PUBLIC POLICY, AND CIVIL RIGHTS* 149 (John D'Emilio et al. eds., 2000); *Five Circles of Effective Advocacy, and The Concept of Legislative Lawyering*, available at [http://www.law.georgetown.edu/clinics/flc/five\\_circles.html](http://www.law.georgetown.edu/clinics/flc/five_circles.html); *Response: The Moral Rhetoric of Legislation*, 72 N.Y.U. L. REV. 992 (1997); *Definition of Disability Under Federal Anti-Discrimination Law: What Happened? Why? And What Can We Do About It?*, 21 BERKELEY J. EMP. & LAB. L. 91 (2000).

subject — by courts, not just by academics.<sup>14</sup> When a major appellate victory rolls out for a lesbian mother, the odds are always very high that something by Nancy will be cited, quoted from, and relied upon by the court to bolster its decision. She deserves much of the credit for creating, shaping, and achieving acceptance for the concept of the same-sex co-parent that is now emerging as an established concept in more and more appellate courts.

Finally, Ruthann Robson, who is a leading theoretician of a distinctive lesbian jurisprudence, embodied in fascinating books<sup>15</sup> and law review articles, deconstructing the law school experience itself most recently, and effectively skewering the failures of law to account for the reality of lesbian lives. She brings to the task the discerning eye and imagination of the skilled novelist as well as the disciplined legal thinker. I do not know whether CUNY Law School shares this information with their faculty members who are being considered for tenure, but I had the rare privilege to review and comment on her writing as an outside reader in that process, and it was an easy task for me because I already knew and admired her terrific work.

What a panel of seers we have assembled, to be moderated by a man who has become one of the most prolific commentators on lesbian and gay law in our time, Bill Eskridge of Yale Law School. Here is yet another legal academician who bursts the bounds of the academy. While still a member of the Georgetown Law School faculty, Bill took up one of the first significant same-sex marriage cases of the second wave. The first wave was a series of unsucces-

---

<sup>14</sup> See, e.g., Nancy D. Polikoff, *Raising Children: Lesbian and Gay Parents Face the Public and the Courts*, in *CREATING CHANGE: SEXUALITY, PUBLIC POLICY, AND CIVIL RIGHTS* 305 (John D'Emilio et al. eds., 2000); *Why Lesbians and Gay Men Should Read Martha Fineman*, 8 AM. U. J. GENDER SOC. POL'Y & L. 167 (2000); *We Will Get What We Ask For: Why Legalizing Gay & Lesbian Marriage Will Not "Dismantle the Legal Structure" of Gender in Every Marriage*, 79 VA. L. REV. 1535 (1993); *This Child Does Have Two Mothers: Redefining Parenthood to Meet the Needs of Children in Lesbian Mother and Other Nontraditional Families*, 78 GEO. L.J. 459 (1990).

<sup>15</sup> See, e.g., Ruthann Robson, *Making Mothers: Lesbian Legal Theory & The Judicial Construction of Lesbian Mothers*, 22 WOMEN'S RIGHTS L. REP. 15 (Fall/Winter 2000); *LESBIAN (OUT)LAW: SURVIVAL UNDER THE RULE OF LAW* (1992); *GAY MEN AND LESBIANS AND THE LAW* (1995); *SAPPHO GOES TO LAW SCHOOL: FRAGMENTS IN LESBIAN LEGAL THEORY* (1998); *Making Mothers: Lesbian Legal Theory and the Judicial Construction of Lesbian Mothers*, 22 WOM. RTS. RPTR. 16 (2000) (forthcoming).

ful same-sex marriage cases brought in the 1970s. The second wave was sparked by the March on Washington for Lesbian and Gay Rights in 1987, with its massive demonstration and same-sex commitment ceremony on the steps of the Internal Revenue Service, and Bill caught that wave and argued in the District of Columbia courts for a marriage license for a gay couple. Although the litigation did not succeed, the movement has borne wondrous fruit, including a major book by Bill on the history of marriage,<sup>16</sup> followed by a barrage of articles and another recent book on gay law that has received national attention.

To me, one of the biggest honors paid to the Law Notes, and to those of us who have been involved in putting it out for the past twenty years, is to have such an extraordinary assembly of lesbian and gay law thinkers and do-ers assembled here today to give us a critical look at where we have been, where we are, and where we should be going.

I cannot wait to hear from them, so I will get out of the way and let them do their thing!

---

<sup>16</sup> See, e.g., William N Eskridge Jr., *Comparative Law and the Same-Sex Marriage Debate: A Step-by-Step Approach Toward State Recognition*, 31 McGEORGE L. REV. 641 (2000); *No Promo Homo: The Sedimentation of Antigay Discourse and the Channeling Effect of Judicial Review*, 75 N.Y.U. L. REV. 1327 (2000); *Hardwick and Historiography*, 1999 U. ILL. L. REV. 631 (1999); *Multivocal Prejudices and Homo Equality*, 74 INDIANA L.J. 1085 (Fall 1999); *THE CASE FOR SAME-SEX MARRIAGE: FROM SEXUAL LIBERTY TO CIVILIZED COMMITMENT* (1996); *GAYLAW: CHALLENGING THE APARTHEID OF THE CLOSET* (1999); *Destabilizing Due Process and Evolutive Equal Protection*, 47 UCLA L. REV. 1183 (2000); WILLIAM N. ESKRIDGE, JR. & NAN D. HUNTER, *SEXUALITY, GENDER AND THE LAW* (1997) (casebook).